

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Arbitration Case No.219 of 2016 (O&M)
Date of Decision: 19.05.2017

M/s Turbo Infratech Private Limited.

.....Petitioner

versus

M/s Chadha Super Cars Private Ltd.

.....Respondent

CORAM: HON'BLE MR.JUSTICE S.J.VAZIFDAR, CHIEF JUSTICE

Present : Mr. H.S.Kathpal, Advocate, for the petitioner.
Mr. Rakesh Bhatia, Advocate, for the respondent.

S.J.VAZIFDAR, CHIEF JUSTICE (ORAL)

This is an application under section 11(6) of the Arbitration & Conciliation Act, 1996 for the appointment of the sole arbitrator to adjudicate upon the disputes and differences between the parties.

2. The parties had entered into two contracts both dated 27.08.2012 for the construction of show-rooms at Moga and Ferozepur respectively. Paragraph-5 of the petition does mention that the work was in respect of show rooms at different places. In paragraph-6 the work for construction of show rooms-in plural is mentioned. However, obviously through inadvertence only Moga is mentioned though admittedly there were two agreements, one in respect of Moga and other for Ferozepur. The respondents in their reply/affidavit fairly annexed with the agreements which also refer to the work at Ferozepur. That omission to mention Ferozepur by name in the petition is also evident from paragraph-9 thereof which refers to the amounts payable, the amounts paid and the balance outstanding in respect of both the constructions and not merely in respect of one of the contracts. Indeed, the two agreements being separate, each with an

arbitration clause and its own terms and conditions as regards the quantum of work and the amount due, separate references have to be made and separate awards would have to be made.

3. It is important to note that the petitioner had filed a suit before the learned Additional Civil Judge (Senior Division) at Ludhiana in respect of its claims against the respondents. The respondents filed an application under section 8 of the Act contending that each of the agreements contain an arbitration clause. The respondents' application under section 8 was allowed. The learned Judge referred to the two agreements in respect of the construction works at Ferozepur and Moga separately. The learned Judge further observed that both the contracts contained arbitration clauses. The application was ultimately allowed. The application under section 8 read with section 5 of the Act for referring the matter to arbitration filed on behalf of the defendants therein i.e. the respondents in this petition was well founded, the suit was not maintainable and the parties were directed to refer the matter to arbitration. In this view of the matter, it is not even open to the respondents to oppose the appointment of an arbitrator.

4. In these circumstances, the petition is disposed of. Mr. Justice K.S.Garewal, former Judge of this Court, is appointed as the sole arbitrator in respect of the disputes and differences arisen between the parties under both the agreements. However, the references will be separate and the learned arbitrator shall pass separate awards.

19.05.2017
ravinder

(S.J. VAZIFDAR)
CHIEF JUSTICE

Whether speaking/reasoned	Yes/No/
Whether reportable	Yes/No/